

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

PEDRO GOMEZ-ORTEGA,
Petitioner/Defendant,
vs.
UNITED STATES OF AMERICA,
Respondent/Plaintiff.

CASE NO. 12cr1001/12cv2033-LAB
**ORDER DENYING 28 U.S.C.
§ 2255 HABEAS MOTION**

Pursuant to a plea agreement, Petitioner/Defendant Pedro Gomez-Ortega pleaded guilty to one count of attempted entry after deportation, in violation of 8 U.S.C. § 1326. On July 30, 2012, the Court sentenced him to 18 months' imprisonment plus three years' supervised release and a \$100 assessment. Then on August 16, Gomez-Ortega filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255.

The petition is virtually an exact boilerplate duplicate of one this Court has rejected on many occasions as meritless; only the case-specific information such as Gomez-Ortega's name and the case number have been typed in. These claims have no more merit now than on the many other occasions when they were raised and rejected before. *See, e.g., Rendon-Inzunza v. United States*, 2010 WL 3076271 (S.D.Cal., Aug. 6, 2010).

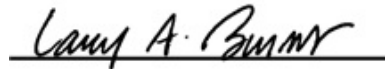
Furthermore, Gomez-Ortega waived appeal and collateral attack, provided he was not given a custodial sentence above the high end of the guideline range recommended by the government pursuant to his plea agreement. (See Docket no. 13 at 9:24–3 (Plea

1 agreement.) A comparison of his plea agreement and the government's sentencing
2 memorandum show the government followed the plea agreement in recommending a
3 guideline range of 12 to 18 months. (*Compare* Docket no. 13 at 7:11–28 (provisions of plea
4 agreement) *with* Docket no. 23 (government's sentencing memorandum).) It also bears
5 mentioning that Gomez-Ortega's own sentencing summary chart agreed with the
6 government that the guideline range was 12 to 18 months. (See Docket no. 24.) Because
7 Gomez-Ortega was not given a custodial sentence greater than the high end of the guideline
8 range, he waived collateral attack.

9 The motion is **DENIED**.

10 **IT IS SO ORDERED.**

11 DATED: August 20, 2012

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13 **HONORABLE LARRY ALAN BURNS**
14 United States District Judge
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